IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

CRIMINAL APPLICATION NO. 4613 OF 2004

IN

CRIMINAL APPEAL NO.980 OF 2004

Vijay Rangnath Tikoti .. Appellant

versus

The Regional Passport Officer & Ors.. Respondents

...

Mr.Shekhar Ingawale i/b Ms.Sangeeta Choudhari for the applicant.

Mr.R.F. Lambay PP for the respondent no.1.

Mr.A.M. Shringarpure, APP for the State.

CORAM : V.M. KANADE, J

DATED : 20th December 2004.

P.C:-

1. The applicant has filed this application seeking direction from this Court that the respondent no.1 be directed to issue passport to the petitioner and grant permission to the petitioner to travel

abroad.

2. The petitioner was working as an Asstt.Engineer with the Maharashtra State Electricity Board (MSEB) at the Bhosari office, Pune and retired from his service on 30th April 2003. The petitioner was convicted by the Special Judge, Pune in Special Case no.26 of 2001 for the offence punishable u/s.7 and 13(1)(d) r/w sec.13(2) of the Prevention of Corruption Act and he was sentenced to suffer RI for two years and six months and to pay fine of Rs.7,000/- each on both the counts. Against the said judgement and order, the petitioner preferred Criminal Appeal which is admitted by this Court and is pending hearing and final disposal. This Court also was pleased to grant bail to the petitioner by order dated 24th August 2004 in Criminal Application 2462 of 2004. The petitioner has now preferred this application stating that his son is working in Melbourne, Florida State, U.S.A and has invited the petitioner and his wife for a vacation in U.S.A. The petitioner submits that he is retired from MSEB in April 2003 and is permanently residing at the address mentioned in the application for 20 years. He has also filed an affidavit stating that the said flat

stands in his name and is valued at Rs.7.50 lakhs. He has also stated that his daughter is permanently residing at Pune. The petitioner has relied on judgement of this Court reported in 2000 All M.R. (Cri) 5 in the case of Shyam Dwarkadar Chabria Vs. The Regional Passport Officer & Anr. The learned counsel appearing on behalf of the respondent submitted that in view of section 6 of the Passport Act, if a person is convicted by any Court in India, the passport authority has a right to refuse grant of passport. He submitted that u/s.4 of the Passport Manual,passport would be issued for a period of six months if an order is passed by a Court permitting the applicant from going abroad.

3. In my view, since the Criminal Appeal is pending in this Court, permission to travel abroad can be granted by this Court on compliance of certain terms and conditions. The petitioner has already filed an affidavit giving list of his property in India. The petitioner’s daughter is also permanently residing in Pune. In view of the ratio of the judgment in Shyam Chabria’s case (Supra) would be squarely applicable to the facts of the present case and issuance of passport therefore cannot be refused

on the ground of pending criminal case. In my view, the passport authority will have to follow the procedure laid down in notification dated 25th August 199 and directions given by this Court in the case of Dipak Chhabria Vs. Union of India reported in 1996(4) All M.R. 241.

4. The petitioner therefore is permitted to travel abroad for a period of six months. The period of six months to be calculated from the date on which the applicant is issued a boarding pass and leaves the country. The passport authorities to issue a passport to the petitioner on the basis of the permission granted by this Court. It is clarified that the period of six months shall be calculated from the date the petitioner leaves this country.

5. Application is allowed in the above terms.

V.M. KANADE, J